



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

CHRISTOPHER G. SIMPSON,
Plaintiff,

vs.

LT. BRANDON SCOTT et al.,
Defendants.

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CIVIL ACTION NO. 8:11-0618-HFF-KFM

ORDER

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the action be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 16, 2011, and the Clerk of Court entered Plaintiff's objections to the Report on March 24, 2011, and his Supplemental Objections on March

28, 2011. The Court has reviewed the objections, but finds them to be without merit. Therefore, the Court will enter judgment accordingly.

In his March 28, 2011, submission, Plaintiff also moves to amend his complaint. The motion is hereby **GRANTED**. But because all of his claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), dismissal of this action, without prejudice, remains appropriate.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Plaintiff's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that the action is **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.

Signed this 2nd day of May, 2011, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.